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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 05-00395 CRB
)	
Plaintiff,)	<u>REQUEST, STIPULATION AND ORDER</u>
)	
v.)	
)	
HYE CHA KIM,)	
)	
Defendant.)	

This matter is currently on the Court's calendar for January 10, 2007. Through counsel, defendant Hye Cha Kim and the United States ask the Court to (a) vacate the January 10, 2007 date based on the defendant's anticipated plea agreement, (b) specially set a date of February 5, 2007 for change-of-plea, and (c) exclude time under the Speedy Trial Act, 18 U.S.C. § 3161 from January 10, 2007, to February 5, 2007.

1. The parties are currently engaged in plea negotiations and request that the Court set the matter for February 5, 2007, for change-of-plea.

2. Based on the on-going negotiations, defense counsel needs time to review certain discovery. The parties are in the process of finalizing the plea agreement. However, defense

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counsel is starting a lengthy trial before visiting Judge Shubb, and needs to work his additional plea discussions and review of materials around Judge Shubb's trial schedule.

3. The parties agree that the time between January 10, 2007 and February 5, 2007 should be excluded from the Speedy Trial clock. Previously, the Court has declared this case complex. See 18 U.S.C. § 3161(h)(8)(B)(ii). Further, defense counsel needs time to review additional materials from the government and investigate the immigration consequences of a plea agreement. The parties agree that a continuance is necessary for the effective preparation of defense counsel, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). Further, given counsels' schedules, a continuance is appropriate based on continuity of counsel. Id. The parties also agree that the ends of justice served by excluding the period from January 10, 2007 to February 5, 2007 outweigh the interest of the public and the defendant in a Speedy Trial. See id. § 3161(h)(8)(A).

STIPULATED:

1/8/07

/s/ PETER B. AXELROD

DATE

PETER B. AXELROD
LAUREL BEELER
Assistant United States Attorneys

1/8/07

/s/ PETER B. AXELROD for

DATE

SCOTT SUGARMAN
Attorney for Hye Cha Kim

ORDER

For good cause shown, and for the reasons stated above, the Court (a) vacates the January 10, 2007, hearing date for defendant Hye Cha Kim based on the anticipated change-of-plea, (b) sets the matter for change-of-plea on February 5, 2007, at 2:00 p.m., and (c) excludes times under the Speedy Trial Act, 18 U.S.C. § 3161, from January 10, 2007 to February 5, 2007. The Court finds

1 that the failure to grant the requested exclusion would deny defense counsel reasonable time
2 necessary for effective preparation taking into account the exercise of due diligence. Further, the
3 Court find the exclusion warranted based on continuity of counsel. The Court also finds the
4 exclusion warranted on complexity grounds, under 18 U.S.C. § 3161(h)(8)(B)(ii). Thus, the
5 Court finds that the ends of justice served by granting the requested exclusion outweigh the best
6 interest of the public and the defendant in a speedy trial and in the prompt disposition of criminal
7 cases. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C.
8 §§ 3161(h)(8)(A), (h)(8)(B)(ii) and (h)(8)(B)(iv).

9 IT IS SO ORDERED.

10
11 DATED: January 8, 2007

12 CHARLES R. BREYER
United States District Judge

